

### **Amendments to the Drawings**

The attached sheets of drawings include amendments to FIGS. 8, 9 and 13. FIG. 8 has been amended to change one of the items 220 to item 222. FIG. 9 has been amended to change item 107-7 to item 170-7. FIG. 13 has been amended to change “RETRACK” to “RETRACT” in block 258.

Attachment: -- Annotated Sheets  
              -- Replacement Sheets

### Remarks

This is responsive to the Office Action of December 30, 2005. These amendments and remarks are proper, do not introduce new matter, are not narrowing in view of a rejection over a cited reference, are clarifying in nature and serve to substantiate why the application is in proper condition for reconsideration and allowance.

### Rejection of Claims Under 35 U.S.C. §103(a)

Claims 1-25 stand rejected as allegedly being unpatentable over Ahn '576 in view of Schirle '545 and further in view of Bauck '759. The Examiner has failed to substantiate a *prima facie* case of obviousness because the cited references do not teach or suggest, neither individually nor in combination, all the features of the independent claims.

As for claim 1, the cited references do not teach or suggest *a merge assembly to operate...between a retracted position to load and unload the disc...* The Examiner read this claim feature onto the load/unload ramp of Schirle '545. However, this is clear error because the load/unload ramp of Schirle '545 loads and unloads the head, not the disc. See, for example, in the passage cited by the Examiner: "Disclosed is a head load/unload and airflow control apparatus for a disk stack..." (Schirle '545 col. 1 lines 59-60, emphasis added) The load/unload ramp (cam 33) is fixed in place, extending over the edge of the disc. (Schirle '545 col. 4 lines 25-29; "cams 33 may be...precisely mounted on base plate 20 at the correct radial position and fixed in position by screws or by cementing.") The cams 33 thereby are fixed in a manner that prevents the discs from being unloaded, contrary to the present embodiments as claimed in claim 1. The examination resulting in the anticipatory rejection of claim 1 is incomplete in regard to the Examiner's obligation to

consider the patentability of the invention as claimed. 37 CFR 1.104(a) Accordingly, any future rejection of claim 1 cannot be made final.

As for claim 15, the cited references do not teach or suggest *a servo writer including a servo head to write a servo pattern or information to a disc or discs supported on a spindle hub oriented to support the disc or discs in a generally vertical orientation....* The Examiner provides no substantiation whatsoever for the cited references anticipating this claim feature, thereby completely ignoring an explicitly recited feature in the claim. The examination resulting in the anticipatory rejection of claim 15 is incomplete in regard to the Examiner's obligation to consider the patentability of the invention as claimed. 37 CFR 1.104(a) Accordingly, any future rejection of claim 15 cannot be made final.

As for claim 21, for the same reasons as discussed above for claim 1 the cited references do not teach or suggest *unloading the disc....* The examination resulting in the anticipatory rejection of claim 21 is incomplete in regard to the Examiner's obligation to consider the patentability of the invention as claimed. 37 CFR 1.104(a) Accordingly, any future rejection of claim 21 cannot be made final.

Nevertheless, Applicant has replaced the originally filed claims with new claims, solely in order to more particularly point out and distinctly claim the patentable subject matter of the present embodiments.

As for independent claim 26, the art of record neither identically discloses nor teaches or suggests *an enclosure that is operably movable in relation to the storage medium between a merged position to enclose a portion of the storage medium and a retracted position to clearly unenclose the storage medium.*

As for independent claim 39, the art of record neither identically discloses nor teaches or suggests moving an enclosure portion of the servo writer device from a retracted position, whereat the enclosure clearingly unencloses the loaded storage medium, to a merged position, whereat the enclosure encloses a portion of the loaded storage medium....

As for independent claim 51, it is written in accordance with 35 U.S.C. §112, sixth paragraph. The Applicant has identified the function associated with the recited *means for enclosing* element as being the enclosing of both sides and edge of the storage medium during servo writing in order to reduce DC wander. The Examiner is obliged as a matter of law to construe this means element as the disclosed structure, and equivalents thereof, that are capable of the identical function. See *B. Braun Medical, Inc. v. Abbott Lab.*, 43 USPQ2d 1896, 1900 (Fed. Cir. 1997); *In re Donaldson Co. Inc.*, 26 USPQ2d 1845 (Fed. Cir. 1994)(*en banc*); *In re Dossel*, 42 USPQ2d 1881 (Fed. Cir. 1997); *Supplemental Examination Guidelines for Determining the Applicability of 35 U.S.C. 112, Para. 6*, 65 FR 38510. Failure to do so constitutes reversible error.

The disclosed structure for performing the recited function includes an enclosure (such as the fluid dam 170 or stripper 172) that movably retracts to provide an opening larger than the disc 102 for loading the disc 102. The structure further includes a drive assembly (such as 212) for moving the enclosure between the retracted and merged positions. For the reasons discussed above, when this *means for enclosing* feature is properly construed, it is clear that the cited references, taken as a whole, fail to disclose this feature.

Accordingly, passage to allowance of independent claims 26, 39 and 51 and the claims depending therefrom is respectfully requested.

### **Conclusion**

This is a complete response to the Office Action mailed December 30, 2005. The Applicant respectfully requests reconsideration and allowance of all of the claims pending in the application.

Absent allowance, Applicant has requested herein a telephone interview with the Examiner before the next action on the merits. This interview is necessary to resolve outstanding issues to prevent another unsubstantiated rejection.

The Examiner is encouraged to contact the below signed Attorney should any questions arise concerning this response.

Respectfully submitted,

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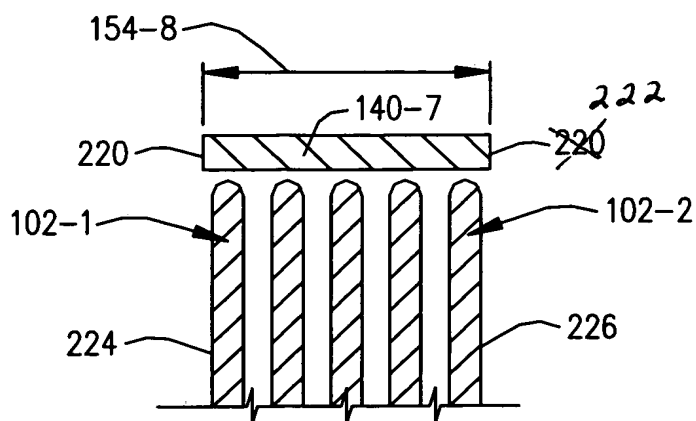


FIG. 8

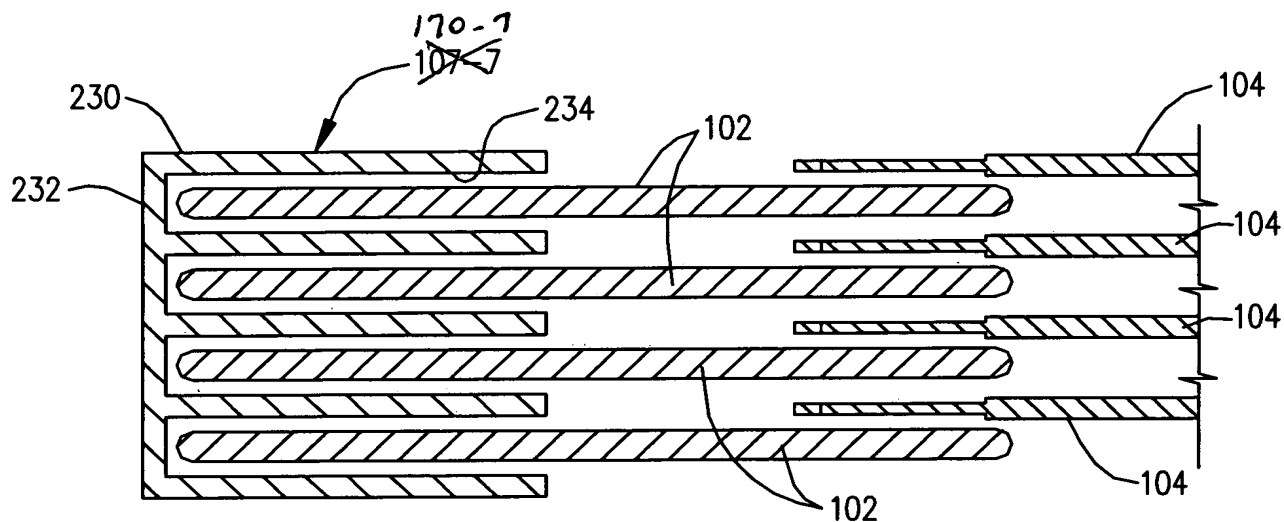


FIG. 9

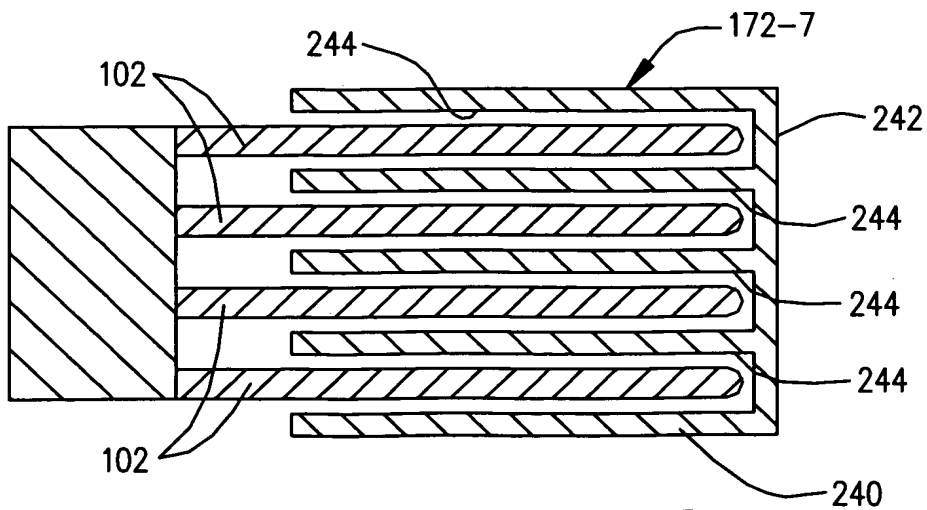


FIG. 10

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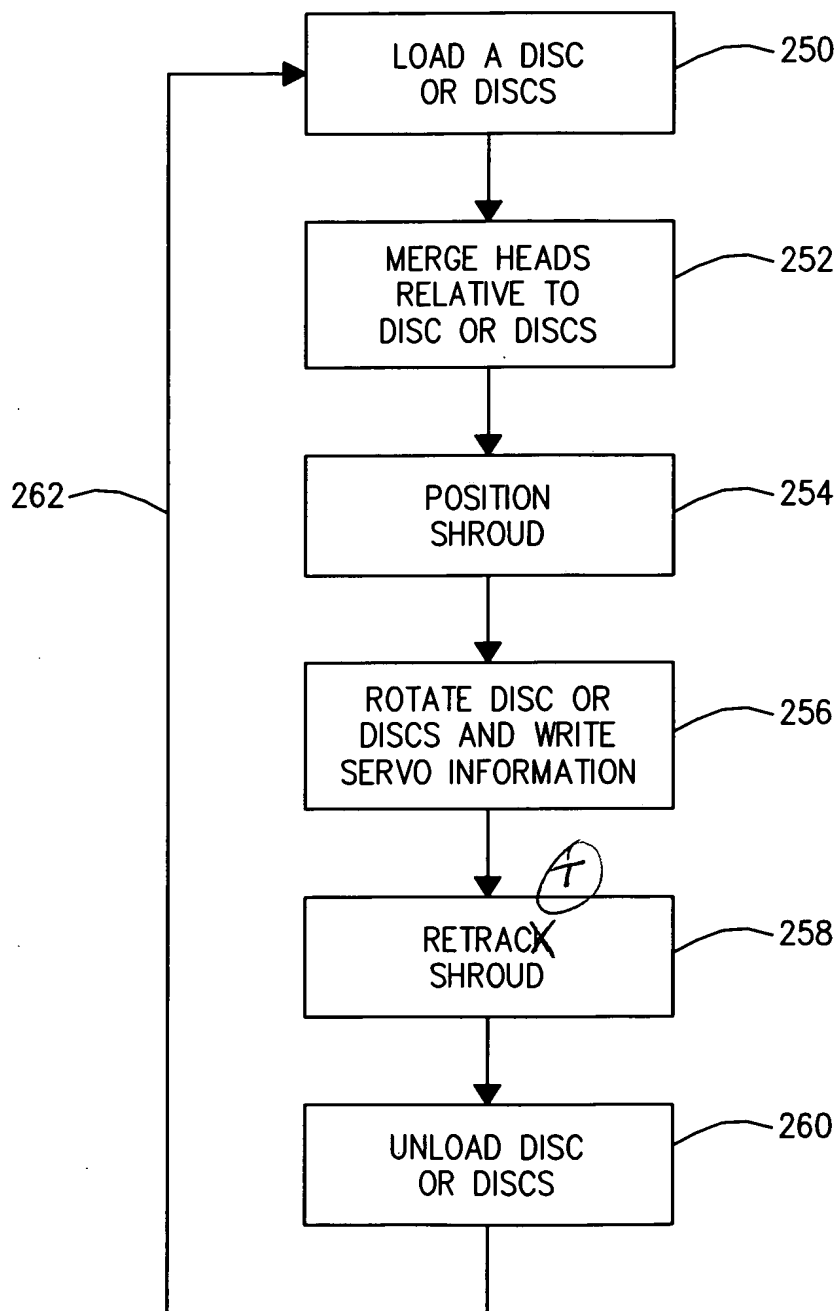


FIG. 13